IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 13055 of 2004

Between:

Ambati Maheswara Reddy @ Mahesh, S/o. Rami Reddy,
Occ: Agriculture, Allagadda, Kurnool District.

..... PETITIONER

AND

1 Superintendent of Police, Kurnool.
2 The Station House of Police,
Town Police Station, Allagadda, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 1st Respondent in opening the Rowdy Sheet against the Petitioner and continuing the same till date as arbitrary, illegal contrary to the Order 743 of the Police Station Standing Orders and violation of Article 21 of the Constitution of India and consequently direct the 1st Respondent to close Rowdy Sheet opened against the Petitioner vide Rowdy Sheet No. 40 dated 1-11-1995 on the file of the Allagadda Town Police Station forthwith in the interest of justice.

Counsel for the Petitioner:MR.P.NAGENDRA REDDY

Counsel for the Respondent No.: GP FOR HOME

The Court made the following :

O R D E R:

The writ petition is filed under Article 226 of the Constitution of India, seeking a writ of Mandamus declaring the action of the 1st respondent in opening the Rowdy Sheet against the writ petitioner and continuing the same till date as arbitrary and contrary to the Order 743 of the Police Standing Orders.

It is stated that the 2nd respondent-Station House Officer, Town Police Station, Allagadda, Kurnoor District registered a case against the writ petitioner in crime No.59 of 1995 for the offence punishable under Sections 143, 148, 353, 506 read with 511 IPC. The said case ended in acquittal by the Judicial I Class Magistrate, Allagadda in 1999. Upon registering the said crime on 01-11-1995, the 1st respondent-Superintendent of Police, Kurnool opened rowdy sheet No. 40 against the writ petitioner and continued the same till date without there being any reason. It is further stated that the writ petitioner made representations before the respondents to close the rowdy sheet opened against him stating that after 1995, no case has been registered against him. But the respondents without assigning any reason, have been continuing the rowdy sheet against the writ petitioner. The grievance of the writ petitioner is that without assigning any reason opening and continuing rowdy sheet against him is contrary to the Order 743 of Police Standing Orders. Aggrieved by the same, the present writ petition has been filed.

In the counter filed by the respondents it is stated that since the writ petitioner continued his unlawful and rowdy activities causing breach of peace and tranquility in the area, the rowdy sheet opened against him has been continued. In view of the same, another case in crime No.21 of 2004 under Section 110 (e) & (g) Cr.P.C. was also registered against the writ petitioner and he was bound over to keep good behaviour for a period of six months by the Hon'ble Mandal Executive Magistrate, Allagadda vide M.C.No.8 of 2004 dated 24-03-2004. Under the circumstances, and in the light of the provisions of A.P.Police Standing Orders, the rowdy sheet opened against the writ petitioner is not liable to be closed in the interests of public.

Heard.

Now the question that arises for consideration is as to whether continuation of rowdy sheet opened against the writ petitioner is just and reasonable?

Learned counsel for the writ petitioner contended that mere pendency of a single case against the writ petitioner cannot be a ground to open rowdy sheet against him under

the provisions of Police Stand Orders. In support of his contention, he relied on a decision in the case of **B,Satyanarayana Reddy Vs. State of Andhra Pradesh and others(),** wherein a Division Bench of this Court while allowing the appeal held that "since the appellant therein involved in one criminal case and the offences alleged against him have nothing to do with the breach of peace, the solitary incident in which he was alleged to have been involved itself cannot constitute any basis or ground to classify him as a rowdy-sheeter."

I have perused the material available on record.

In the decision cited supra, it is clearly stated that the very expressions 'habitually commit', 'attempt to commit' and 'abet the commission of ' offences indicate the requirement that at least two or more cases have been registered against the person concerned to characterize such person as a person who habitually commit, attempt to commit or abet the commission of offences.

In the instant case, two cases have been registered against the writ petitioner in which one of them was ended in acquittal and admittedly, another case, which was registered against the petitioner was binding over him for a period of six months was also over. Therefore, it is clear that as on to-day, no case is pending against the writ petitioner involving breach of peace. It is also pertinent to note that as per Police Standing Orders, mere pendency of a single case against the writ petitioner is not a ground to open rowdy sheet against the writ petitioner stating that he is habitually involving in the activities of breach of peace.

Having regard to the facts and circumstances in the decision cited supra, I am of the view that the principles laid down in the said decision squarely applies to the facts of the case on hand.

In view of the facts and circumstances of the case, and in the light of the principles laid down in the above decision, I am of the considered view that continuation of criminal proceedings against the writ petitioner in this regard is illegal and unsustainable**.**

Accordingly the writ petition is allowed directing the respondents to close down the rowdy sheet No. 40 opened against the writ petitioner forthwith. No costs.

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09-03-2005

Mjl/*

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the ninth day of March, two thousand and five.

REGISTRAR.

To,

1 The Superintendent of Police, Kurnool.
2 The Station House of Police, Town Police Station, Allagadda,

Kurnool District.

3. 2 CCs to G.P. for Home, High Court buildings, Hyderabad. (OUT)

4. 2 CD copies.